

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS**

JOHNNIE JOHNSON,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 06 CV 5086
)	
JOLIET JUNIOR COLLEGE, et al)	The Honorable Judge Wayne R. Andersen
)	Magistrate Judge Arlander Keys
Defendants.)	

**RULE 12(b)(1) AND 12(b)(6) MOTION TO DISMISS ON BEHALF OF
DEFENDANTS JOLIET JUNIOR COLLEGE AND EDWARD SENU-OKE**

Defendants, JOLIET JUNIOR COLLEGE and EDWARD SENU-OKE, by and through their attorneys JAMES G. SOTOS and SARA M. CLIFFE of JAMES G. SOTOS & ASSOCIATES, LTD., request that this Honorable Court enter an order dismissing the forthcoming Counts of Plaintiff's First Amended Complaint in the above-captioned matter. In support of their motion, Defendants state as follows:

1. Plaintiff filed an eight-count complaint with this Court on September 20, 2006, alleging various causes of action arising from Defendants' alleged discriminatory conduct.
2. Plaintiff amended her complaint on November 17, 2006, alleging race/national origin discrimination in violation of Title VII against Defendant Joliet Junior College (hereinafter "JJC") (Count I), hostile work environment in violation of Title VII against JJC (Count II), retaliation in violation of Title VII against JJC (Count III), violation of 42 U.S.C. § 1981 against all Defendants (Count IV), retaliation in violation of 42 U.S.C. § 1981 against all Defendants (Count V), negligent supervision and retention against JJC (Count VI), defamation against Defendant Edward Senu-Oke (Count VII), and intentional infliction of emotional distress against all Defendants (Count VIII).

3. Counts IV and V should be dismissed with prejudice as against JJC because Plaintiff fails to meet the legal requirements of § 1981 when instituting suit against a public entity.

4. Counts VI, VII, and VIII alleging state law tort claims should be dismissed with prejudice because this Honorable Court lacks subject matter jurisdiction over the claims.

5. Count VI, alleging negligent supervision and retention, should also be dismissed with prejudice pursuant to §2-202 of the Illinois Tort Immunity Act.

6. Count VII should be dismissed with prejudice as against Defendant Edward Senu-Oke because Plaintiff omits the specific defamatory *per se* statement as required under the Federal Rules of Civil Procedure.

7. All punitive and exemplary damages requested under Counts I-VI and VIII should be stricken as to JJC pursuant to §2-102 of the Illinois Tort Immunity Act.

8. Defendants have prepared a Memorandum of Law in support of this motion, and have attached it hereto.

WHEREFORE, Defendants, JJC and EDWARD SENU-OKE, respectfully request that this Court enter an Order dismissing Counts VI, VII, and VIII with prejudice against all Defendants, Count IV and V with prejudice against Defendant JJC, and all punitive and exemplary damages claims set forth in Counts I-VI, and VIII as to Defendant JJC.

s/Sara M. Cliffe

SARA M. CLIFFE, Attorney No. 06273803
JAMES G. SOTOS & ASSOCIATES, LTD.
550 East Devon, Suite 150
Itasca, Illinois 60143
630-735-3300
630-773-0980 (fax)
scliffe@jsotoslaw.com
One of the Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on Friday, December 22, 2006, I electronically filed the foregoing with the Clerk of the Court for the Northern District of Illinois using the CM/ECF system, which will sent notification to the following CM/ECF participants: Kimberly A. Carr, Allie MacInnis Burnett, Joseph E. Urani and Lori A. Vanderlaan;

s/Sara M. Cliffe

SARA M. CLIFFE, Attorney No. 06273803
JAMES G. SOTOS & ASSOCIATES, LTD.
550 East Devon, Suite 150
Itasca, Illinois 60143
630-735-3300
630-773-0980 (fax)
scliffe@jsotoslaw.com
One of the Attorneys for Defendants